

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DANELIA MOLINA-MEJIA,)	
)	CASE NO. C10-2083-JLR-MAT
Petitioner,)	
)	
v.)	ORDER FOR SUPPLEMENTAL
)	BRIEFING
DHS-ICE DIRECTOR, SEATTLE,)	
)	
Respondent.)	
_____)	

Petitioner is a native and citizen of Mexico who is being detained by the United States Immigration and Customs Enforcement (“ICE”) pursuant to an *in absentia* removal order entered on August 17, 1994. (Administrative Record “AR” at L57.) On December 28, 2010, petitioner, proceeding through counsel, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, arguing that the government failed to comply with the requirements for reinstatement of removal orders set forth in 8 U.S.C. § 1231(a)(5) and 8 C.F.R. § 241.8(1)-(3). (Dkt. No. 1.) She asserts that she departed the United States in 2002 to attend her mother’s funeral in Mexico and subsequently re-entered the United States. (Dkt. Nos. 13 and 17.) Petitioner argues that because she departed the United States, respondent must either begin the

01 process to reinstate the prior order or file a new notice to appear and commence new
02 proceedings against petitioner. *Id.* at 4.

03 On February 4, 2011, respondent filed a motion to dismiss asserting that on January 10,
04 2011, petitioner received a bond hearing before an Immigration Judge (“IJ”) and was denied
05 bond. (Dkt. No. 11.) Respondent contends that petitioner waived her right to appeal the IJ’s
06 bond determination and that the IJ’s bond determination is not subject to judicial review. *Id.* at
07 2. Respondent did not address petitioner’s argument that the government failed to comply
08 with the requirements to properly reinstate the prior order. *See id.* In her reply brief,
09 respondent asserts that she “has *not* reinstated the order of removal because it is not clear
10 whether Petitioner ever self-removed after she was ordered removed *in absentia*.” (Dkt. No.
11 16 at 2.) Respondent notes that although petitioner expressed an intent to submit evidence of
12 her self-removal, at the time, no evidence had been submitted. *Id.*

13 On April 4, 2011, however, petitioner submitted evidence of self-removal in opposition
14 to respondent’s motion to dismiss, consisting of a letter from Sonia Mirella Melgoza
15 Fernandez, a letter from Dr. Elisa Palacisco Yanez, and a certified copy of petitioner’s mother’s
16 death certificate showing petitioner as a witness to the death. (Dkt. No. 17.) Respondent did
17 not respond to the submission of this new evidence.

18 Accordingly, the Court hereby ORDERS:

19 (1) Respondent shall submit supplemental briefing as to the merits of petitioner’s
20 argument that the government failed to comply with the requirements for reinstatement of a
21 prior order under 8 U.S.C. § 1231(a)(5), and must either begin the process to reinstate the prior
22 order or file a new notice to appear and commence new proceedings against petitioner.

Respondent shall submit supplemental briefing on or before **Friday, June 3, 2011**.

(2) Petitioner shall submit a supplemental response to respondent's supplemental briefing no later than **Friday, June 24, 2011**. Counsel for petitioner is reminded that all pleadings, motions, and other legal forms submitted to this Court must conform with the Court's Local Rules, including formatting requirements under Local Rule CR 10(e). Specifically, "[t]he text of any typed or printed brief must be 12 point or larger and must, with the exception of quotations, be double spaced. Footnotes must be 10 point or larger and may be single spaced." Local Rule CR 10(e)(1) (emphasis added). In addition, "[e]ach pleading, motion or other filing shall bear line numbers in the left margin, leaving at least one-half inch of space to the left of the numbers." Local Rule CR 10(e)(5) (emphasis added).

(3) Respondent may file a supplemental reply on or before **Friday, July 1, 2011**.

(4) The Clerk shall RE-NOTE respondent's motion to dismiss (Dkt. No. 11) for consideration on **Friday, July 1, 2011**.

(5) The Clerk shall send a copy of this Order to all counsel of record.

DATED this 10th day of May, 2011.



Mary Alice Theiler
United States Magistrate Judge